

1 Edward W. Swanson, SBN 159859  
2 August Gugelmann, SBN 240544  
SWANSON & McNAMARA LLP  
300 Montgomery Street, Suite 1100  
3 San Francisco, California 94104  
Telephone: (415) 477-3800  
4 Facsimile: (415) 477-9010

5 Court Expert

6

7

8

9

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 JOHN ARMSTRONG, et al.,

Case No. CV 94-2307 CW

13 Plaintiffs,

**COURT EXPERT'S QUARTERLY  
REPORT ON INVESTIGATIONS AND  
DISCIPLINE**

14 v.

15 GAVIN NEWSOM, et al.,

16 Defendants.

17  
18 Pursuant to the Court's orders for remedial measures at the Armstrong Six prisons (RJD,  
LAC, COR, SATF, CIW, and KVSP), the Court Expert provides the following report on  
implementation of CDCR's new investigations and discipline system.

22 **Rewrites to the investigations and discipline process**

23 The Court Expert's last report described negotiations between the parties to make  
24 substantial changes to the investigations and discipline process. As described in that report, the  
25 parties agree on an urgent need for change. For CDCR, the most pressing issue is the volume of  
26 cases, which threatens to overwhelm investigative staff. As discussed below, this is a matter of  
27 substantial concern to the Court Expert as well.

28

1       The parties' negotiations continue, and the Court Expert again wishes to commend both  
2 Plaintiffs' counsel and CDCR for their hard work and good faith efforts to find common ground  
3 and reach compromise where necessary.

4       **CST screening.** As described in the Court Expert's last report, the parties have agreed to  
5 certain modifications to the Allegation Decision Index, the tool used by the Central Screening  
6 Team (CST) to determine whether complaints raise allegations of staff misconduct that require  
7 investigation by the AIU. The parties previously contemplated implementing those changes at  
8 the same time as the other modifications currently under negotiation. However, given the urgent  
9 need to reduce investigator caseload, the parties agreed to immediately implement those changes  
10 for a limited period while negotiations continue on other matters. Briefly stated, these changes  
11 allow CST to assess the merits of a complaint in determining whether to route the matter to AIU  
12 or to the institutions for investigation. The parties anticipate that this revised screening protocol  
13 will alleviate the burden on AIU investigators.

14       **Centralized Allegation Resolution Unit.** Under the current system, wardens are  
15 responsible for reviewing the investigation file, deciding whether the subject violated policy, and  
16 imposing discipline. Both parties have raised concerns about this system. Plaintiffs cite the time  
17 it takes wardens to act on investigations and the inconsistency in disciplinary decisions, and  
18 CDCR notes the burden on wardens from the volume of cases. The parties have agreed to the  
19 creation of a Centralized Allegation Resolution Unit (CARU), a unit within CDCR headquarters,  
20 staffed with CDCR employees, that will review investigation reports related to allegations of  
21 staff misconduct and impose discipline where appropriate. To begin, CARU will act on closed  
22 investigations of complaints from the *Armstrong Six* prisons, and the parties will monitor its  
23 efficacy to determine whether to expand it to other institutions.

24       **Staffing.** As noted in prior reports, CDCR has agreed to work with Plaintiffs to analyze  
25 its staffing needs and to work to increase staffing where possible to meet those needs.

26       **Regulations.** The parties have engaged in extensive negotiations regarding the language  
27 of upcoming regulations on the discipline and investigations process. A draft of CDCR's  
28

1 proposed regulations will be made public in April, and the parties anticipate further negotiations  
 2 during the public comment period.

3 The reforms described above relate primarily to process, although the parties hope they  
 4 will also result in improvements to investigations and disciplinary decision making. In particular,  
 5 the hope is that reducing the number of cases routed to AIU will reduce investigator workload  
 6 and improve the quality of their work, and transferring decision-making to CARU will result in  
 7 more consistent and timely imposition of discipline. The parties are also working to improve the  
 8 quality of investigations. In particular, the parties have agreed to engage an independent expert to  
 9 review CDCR's policies, practices, and training on use of force. The scope of the review remains  
 10 under negotiation, but the parties are proceeding with efforts to locate a qualified expert.

11 The Court Expert agrees with Plaintiffs that there is urgent need to improve  
 12 investigations. Plaintiffs' quarterly reviews of closed cases continue to identify shortcomings in  
 13 investigations and in disciplinary actions, and Plaintiffs' concerns were corroborated by the  
 14 findings in a March 2025 report by the Office of the Inspector General. The OIG reviewed 162  
 15 cases handled by CDCR in 2024, and it concluded that CDCR's overall performance in  
 16 investigations and discipline was "poor" in 73% of cases and "satisfactory" in only 27%; it did  
 17 not rate any investigations or disciplinary decisions as "superior." OIG, *2024 Annual Report*  
 18 (Mar. 10, 2025).<sup>1</sup> Of particular relevance, the OIG found that, in more than 60% of the  
 19 investigations it reviewed, investigators "delayed performing ... investigative activities" such as  
 20 collection of video evidence and conducting interviews, and that investigators additionally  
 21 allowed "significant delays" to develop in the course of investigations. *Id.* at 3. In addition, the  
 22 OIG found that OIA "routinely" opened duplicative investigations of the same matter, for  
 23 example when an incarcerated person made both a verbal and a written complaint about the same  
 24 conduct (*id.* at 7), further straining investigator resources. Finally, OIG rated hiring authority  
 25 performance as "poor" in 64% of cases reviewed. *Id.* at 15 (noting that "a great deal of 'poor'  
 26 ratings ... resulted from hiring authority delays in conducting the investigative and disciplinary

---

27  
 28 <sup>1</sup> <https://www.oig.ca.gov/wp-content/uploads/2025/03/2024-Staff-Misconduct-Investigation-Monitoring-Report.pdf>

1 findings conferences”). As part of our continuing efforts to improve the quality of the  
 2 investigations and discipline process, the Court Expert intends to review these findings with the  
 3 parties during the second quarter.

4 **Case volume and investigation and discipline timelines**

5 The caseload data underscores the urgent need for improvement. While caseloads from  
 6 the *Armstrong* Six prisons have remained fairly constant, the rate at which investigations are  
 7 completed on time has plummeted.

8 In January (the most recent month for which data is available), there were roughly 5,800  
 9 complaints screened by CST from the *Armstrong* Six prisons, compared to an average of around  
 10 5,600 per month over the last year. Of those, an average of 360 cases were routed each month to  
 11 the AIU. The average time spent on a case (again, limited to *Armstrong* Six) continues to be  
 12 roughly 27 hours per case. But the rate at which investigations are completed on time has  
 13 dropped dramatically. This suggests that AIU is experiencing an influx of cases from institutions  
 14 other than the *Armstrong* Six, although the Court Expert does not have case data from those  
 15 institutions. For cases received from the *Armstrong* Six in the first quarter of 2024, AIU  
 16 completed 66.4% of its investigations within the remedial plan’s required timeframes. For cases  
 17 received in the second quarter of 2024, the on-time closure rate dropped to 50.5%, and for cases  
 18 received in the third quarter, it fell to 25.6%.<sup>2</sup> The parties’ recent agreement to reduce case flow  
 19 by modifying CST’s screening criteria, described above, took effect on March 7, 2025 and will  
 20 presumably improve these closure rates. However, any improvement will not be apparent in the  
 21 data until at least four months after the changes took effect. This is because the remedial plan  
 22 allows 120 days for cases assigned to a sergeant or lieutenant and 180 days for cases assigned to  
 23 special agents; thus, it will take at least 120 days to determine whether cases are indeed being  
 24 resolved within the required time frames.

---

25  
 26 <sup>2</sup> The data provided to the Court Expert is current as of January 31, 2025. Thus, for cases  
 27 received in August or September 2024, the 180-day deadline for investigations being conducted  
 28 by special agents (the more serious matters) had not run. However, only around 1% of cases  
 received by AIU in those months were assigned to special agents, so timely completion of those  
 investigations would not meaningfully affect the overall figure.

1 As noted above, the parties have agreed to implement the CARU in an effort to improve  
2 both outcomes and the timeline for decisions on closed investigations. The data underscore the  
3 need for improvement on timing. As of January 31, 2025, wardens had yet to act on 11% of  
4 cases (32 cases in total) received by the AIU in January 2024, a year before.

5 **Review of closed cases**

6 As explained in previous reports, the Court Expert has implemented a process for  
7 confidential discussion on a quarterly basis of individual cases. That process was paused for  
8 several quarters while the parties focused on other aspects of the investigations and discipline  
9 system, but the parties and the Court Expert are scheduled to resume meetings on individual  
10 cases this quarter.

11  
12 Dated: March 31, 2025

Respectfully submitted,

13 /s/  
14 Edward W. Swanson  
15 SWANSON & McNAMARA LLP  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28